

**REPORT - PLANNING COMMISSION MEETING**  
**January 22, 2004**

**Project Name and Number:** Marlais General Plan Amendment (PLN2002-00100)

**Applicant:** Richard Marlais

**Proposal:** To consider a General Plan Amendment to change a portion of the land use designation from Community Commercial (Historic Overlay) and Low Density Residential 2-3.5 du/ac (Historic Overlay) to Low Density Residential 5-7 du/ac (Historic Overlay).

**Recommended Action:** Recommend to City Council

**Location:** 43352, 43360, 43364 Mission Boulevard in the Mission San Jose Planning Area

**Assessor Parcel Number:** 513-380-6

**Area:** .92 acre

**Owner:** Richard Marlais

**Environmental Review:** A Mitigated Negative Declaration has been prepared and circulated for this project.

**Existing General Plan:** Community Commercial Historic Overlay; Low Density Residential 2-3.5 Historic Overlay

**Existing Zoning:** P-2001-34 Planned District

**Existing Land Use:** Two residences and assorted accessory buildings.

**Public Hearing Notice:** Public hearing notification is applicable. A total of 37 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Mission Boulevard, Ellsworth Street, and Washington Boulevard. The notices to owners and occupants were mailed on January 9, 2004. A Public Hearing Notice was delivered to The Argus on January 5, 2004 to be published by January 8, 2004.

**Executive Summary:** The applicant is requesting approval of a General Plan Amendment to change a portion of the land use designation from Community Commercial (Historic Overlay) and Low Density Residential 2-3.5 du/ac (Historic Overlay) to Low Density Residential 5-7 du/ac (Historic Overlay). The project site is .92 acres in size and located in the Mission San Jose Planning area.

**Background:** On June 5, 2001, City Council adopted the Mission San Jose (East) Planned District (P-2001-34). The Marlais GPA proposal is for property within the Mission San Jose (East) Planned District. The Planned District is approximately 44 acres in size and includes part of the historic core of the Mission San Jose planning area. The Mission San Jose (East) Planned District area is characterized by a unique combination of religious and educational institutions, historic structures, and historic landscape features. The City initiated Planned District was adopted to facilitate more cohesive planning for this sensitive area on the east side of Mission Boulevard. The City occasionally initiates a planned district for an area or parcel with sensitive or constraining elements. A set of principles was established by the Planned District to further the following purposes:

- Capture and extend the flavor of the Mission San Jose village
- Preserve natural and historical values
- Encourage mixed uses
- Provide direction for future uses
- Keep a sense of spaciousness
- Recognize landscaping as a significant element

- Provide for circulation needs of pedestrians and vehicles

Development in this area is also regulated by development policies and ordinances for the Hill area, the Historic Overlay, and the Design Guidelines and Regulations for the Mission San Jose Historic Overlay District. The Planned District also established six areas within the Planned District and addressed land use in each area. The Marlais property is in area 6. The development options that may be considered include commercial development of the westerly 250 deep portion of the area and residential development of the easterly remainder. Mixed commercial-residential development was also suggested.

When the application for the GPA was submitted, staff determined that an historic assessment of the existing structures on the site was warranted before further processing of the proposed project. The applicant appealed the staff determination to Planning Commission and provided historic information regarding the age and history of the structures on the property. Planning Commission on November 21, 2002 denied the appeal. The applicant appealed that decision to City Council. City Council on January 14, 2003 upheld the appeal and found information provided by the applicant was sufficient to conclude that the property is not an historic resource.

**Project and Site Description:** The proposed project is a General Plan Amendment to change a portion of the land use designation from Community Commercial (Historic Overlay) and Low Density Residential 2-3.5 du/ac (Historic Overlay) to Low Density Residential 5-7 du/ac (Historic Overlay) for approximately half of a .92 acre site. The area adjacent to Mission Boulevard extending east 150 feet will retain the Community Commercial (Historic Overlay) land use designation. Existing residential buildings on the site will be demolished as part of this project. The future development will include a commercial office building with a second floor apartment adjacent to Mission Boulevard and three single family detached residences on the remainder of the site. The project site is located within the historic core area of Mission San Jose. There are numerous mature trees on the site, including one Washingtonia Palm, Canary Island Date Palms, Redwoods, Western Cedar, and other ornamental species.

#### **Project Analysis:**

**General Plan Conformance:** The existing General Plan land use designation for the project site is Community Commercial Historic Overlay and Low Density Residential, 2-3.5 units per acre Historic Overlay. The proposed designation is Low Density Residential, 5-7 units per acre for approximately the rear half of the property. The project parcel is approximately 310 feet deep (east from Mission Boulevard). The commercial part of the proposed development would extend east approximately 150 feet. This is similar to the recently approved "Los Olivas" commercial project that also extends 145 feet east of Mission Boulevard and is directly across Mission Tierra Place from the subject parcel. The proposed use and schematic site design is consistent with the proposed General Plan designation, because the project meets General Plan Land Use and Housing Goals and Policies as follows:

#### **LAND USE (LU) GOAL 1: NEW HOUSING DEVELOPMENT WHILE CONSERVING THE CHARACTER OF THE CITY'S EXISTING SINGLE FAMILY RESIDENTIAL NEIGHBORHOODS.**

The proposed project would meet this goal by developing single-family homes compatible with the surrounding neighborhood. The residential part of the proposed development would be adjacent to the newly constructed Mission Tierra homes. The proposed development would be subject to design review by HARB, Planning Commission and City Council.

**Policy LU 1.20:** Mixed use (residential/commercial) is allowed in Commercial Districts as specified by the zoning regulations for the respective district in order to increase the vitality and activity within the commercial district.

The commercial office building would be oriented toward Mission Boulevard with parking to the rear. The schematic plan proposes a second floor apartment. The proposed mixed use development is subject to the site plan and architectural design requirements of the Mission San Jose (East) Planned District.

#### **HOUSING (H) GOAL 2: High quality and well designed new housing of all types throughout the city.**

**HOUSING (H) GOAL 3: Housing affordable and appropriate for a variety of Fremont households at all economic levels throughout the city consistent with the Hill Area Initiative of 2002.**

The proposed residences will provide additional housing opportunities at market rate. The proposed project has the potential to enhance the existing neighborhood by providing well-designed housing and commercial development similar to surrounding uses. The proposed project is for less than seven residences and therefore inclusionary housing ordinance is not triggered and no affordable units are required of this project.

**Zoning Regulations:** The proposed project will require a subsequent major amendment to the Mission San Jose (East) Planned District if this general plan amendment is approved. The proposed development will be reviewed for conformance with the development policies and ordinances for the Mission San Jose (East) Planned District, the Hill area, the Historic Overlay, and the Design Guidelines and Regulations for the Mission San Jose Historic Overlay District. Staff will work with the applicant to resolve the following issues regarding the conceptual site plan during the design review process.

**Conceptual Site Plan Analysis:** The applicant has provided a conceptual site plan and grading plan as an informational exhibit supporting the proposed general plan amendment. Neither Planning Commission nor City Council approves the conceptual plans, instead it is used to illustrate that the proposed land use change will support a project. As long as it meets the land use and density requirements, the site plan provided with the anticipated Planned District major amendment application may differ slightly or greatly from the informational plan presented with the general plan amendment.

Staff recommends approval of the proposed general plan amendment, but the conceptual site plan may require some revisions upon more detailed review of development plans during subsequent Planning applications. The following comments are provided to inform the applicant and the Planning Commission of staff's concerns with the conceptual site plan.

A minimum six-foot masonry wall is required between the commercial development and the adjoining residential lot. The applicants informational exhibit shows retaining walls between the single-family parcels. Project grading, particularly on a site such as this in the Hill area, can have an effect on the project site plan and architecture. The applicant's engineer has shown 3 foot retaining walls on the conceptual grading plan. The conceptual grading plan does not include detail about the proposed homes or lot grades to define the extent and need for the proposed walls. A conceptual grading plan shall be required by and reviewed by staff during the Planned District amendment phase of this project.

**Landscaping:** An arborist report was prepared for the site. Trees to be removed during construction will be replaced subject to the review of the City Landscape Architect. The trees that are required to be preserved may require modification of the building pads and paving layout. In particular, the office building must be set back at least ten feet from the property line at Mission Boulevard to allow the existing street trees to grow in a healthy environment. This could be accomplished by a courtyard or entry at the area adjoining the tree. A more detailed landscape plan will be part of the future Planned District application.

**Urban Runoff Clean Water Program:** The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.

**Applicable Fees:**

**Development Impact Fees:** This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. Residential projects will also be subject to park facilities and park dedication in-lieu fees. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

**School Impact Fees:** If the proposed General Plan Amendment is recommended to the City Council and approved, any subsequent development project will be subject to school impact fees.

**Waste Management:** This project shall be subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939). The Act requires that 50% of the waste generated in the City of Fremont be diverted from landfill sites by the year 2000. Additionally, the project is subject to the City's Source Reduction and Recycling Element (1992), an Integrated Waste Management Ordinance (1995), and a Commercial/Industrial Recycling Plan (1997). These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials.

**Environmental Analysis:** An Initial Study and Draft Mitigated Negative Declaration, has been prepared for this project. The environmental analysis identified concerns regarding potential impacts to Cultural Resources, Noise, and Air Quality. The Draft Negative Declaration includes mitigation measures to meet General Plan standards, which, if implemented, would reduce the identified impacts to non-significant levels. These mitigation measures will be included as a Mitigation Monitoring Plan. A more detailed description of the potential impacts and mitigation measures are provided within the Initial Study for the project, which is included as an enclosure.

The initial study conducted for the project has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources. Based on this finding, a Certificate of Fee Exemption will be submitted with the Notice of Determination after project approval by the City Council, as required by Public Resources Code section 21089 (see attachment to draft Negative Declaration). The Certificate of Fee Exemption allows the project to be exempted from the review fee and environmental review by the California Department of Fish and Game.

A finding is proposed that this project would not have a significant effect on the environment based upon the implementation of the identified mitigation measures. Accordingly, a Draft Mitigated Negative Declaration has been prepared for consideration by the Planning Commission.

**Response from Agencies and Organizations:** No outside response or comment had been received at the time of publication of this report. Staff did receive phone calls from the public expressing concern regarding the future construction period. Generally, there was interest that the construction of the proposed development proceed as one construction project and not extend over time as four individual building projects.

**Enclosures:** Informational Conceptual Site Plan  
Applicant's Justification Statement  
Arborist report, November 2, 2003  
Initial Study and Draft Mitigated Negative Declaration

**Exhibits:** Exhibit "A" General Plan Amendment

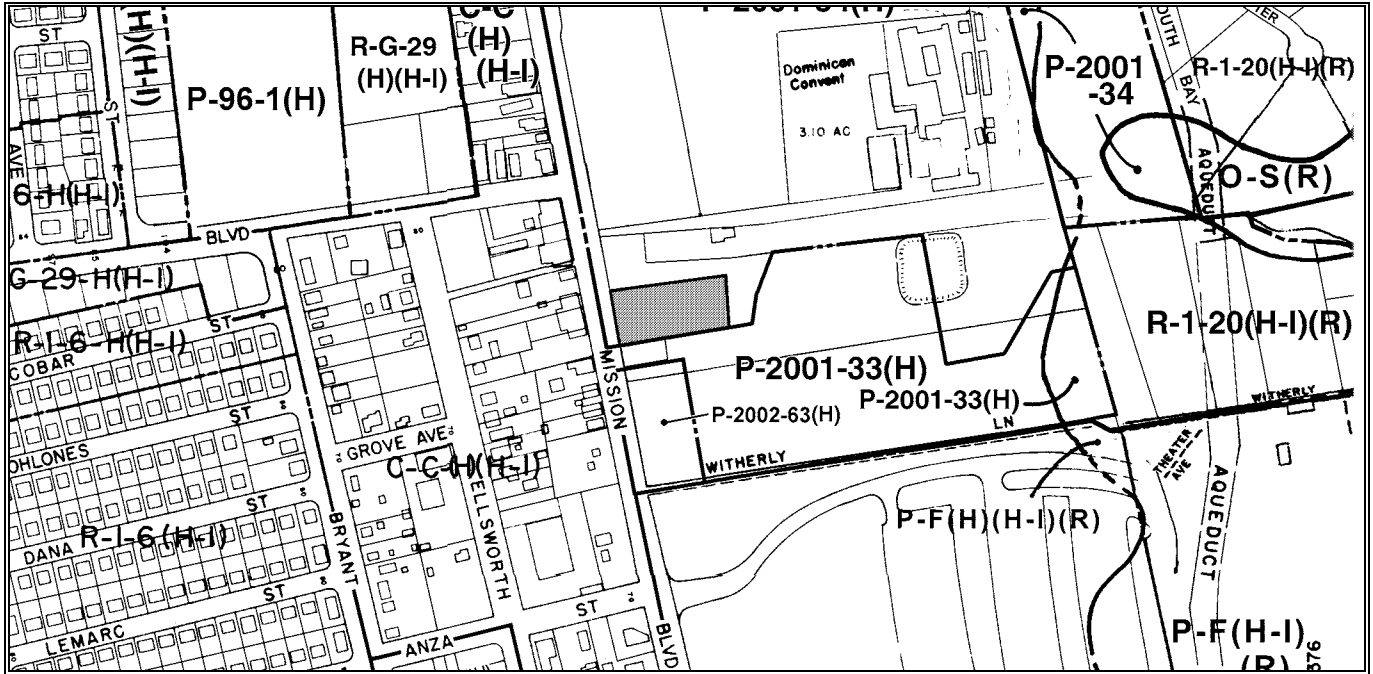
#### **Recommended Actions:**

1. Hold public hearing.
2. Recommend the City Council find the initial study has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources.
3. Recommend the City Council approve draft Mitigated Negative Declaration with a Certificate of Fee Exemption and find it reflects the independent judgment of the City of Fremont.

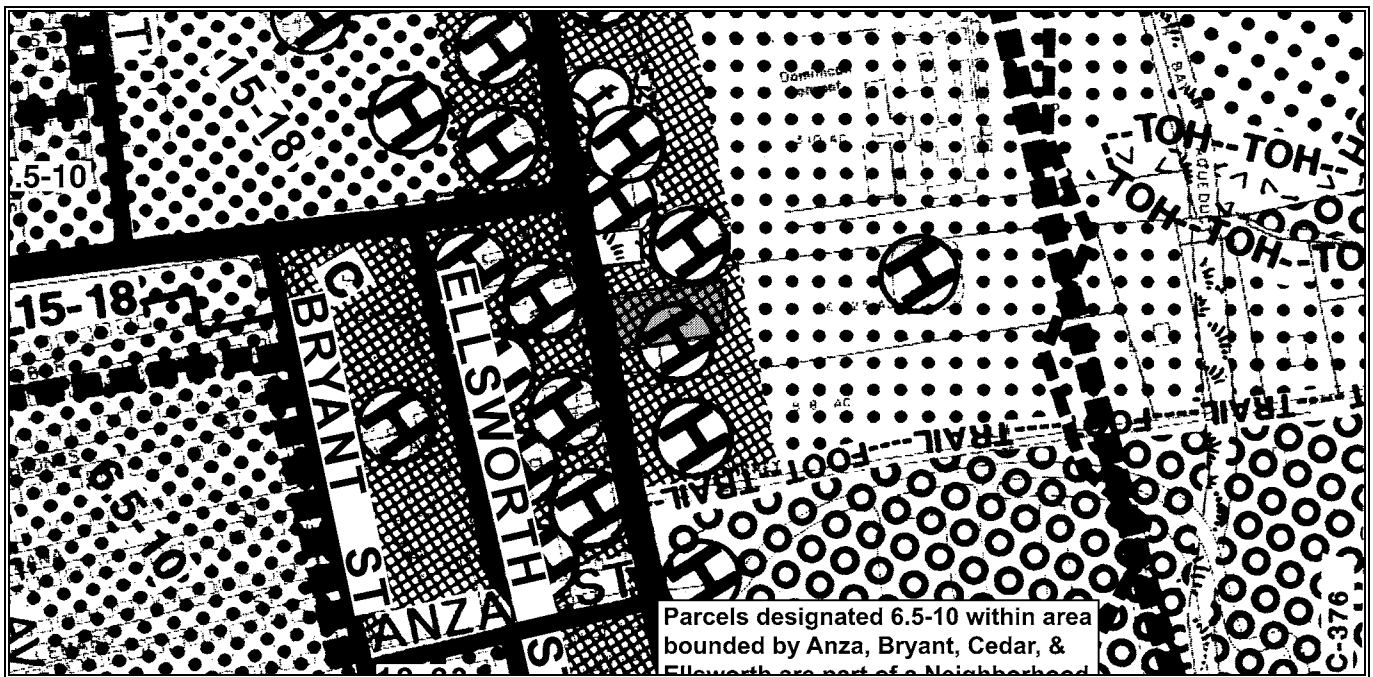
4. Find PLN2002-00100 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Chapters as enumerated within the staff report.
5. Recommend PLN2002-00100 to the City Council in conformance with Exhibit "A" (General Plan Amendment).

# Existing Zoning

Shaded area represents the Project Site



# Existing General Plan



*On the \_\_\_\_\_ day of \_\_\_\_\_, 2004.*

### AFFECTS LAND USE DIAGRAM(S) FOR THE CENTRAL PLANNING AREA

